

Minutes  
Catawba County Board of Commissioners  
Regular Session, Monday, July 7, 2003, 9:30 a.m.

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The Catawba County Board of Commissioners met in regular session on Monday, July 7, 2003, 9:30 a.m., at the 1924 Courthouse, Robert E. Hibbitts Meeting Room, 30 North College Avenue, Newton, North Carolina.

Present were Chair Katherine W. Barnes, Vice-Chairman Dan A. Hunsucker, Commissioners Glenn E. Barger, Barbara G. Beatty, and Lynn M. Lail.

A quorum was present.

Also present were County Manager/Deputy Clerk J. Thomas Lundy, County Attorney Robert Oren Eades, and County Clerk Thelda B. Rhoney.

1. Chair Barnes called the meeting to order at 9:30 a.m.
2. Invocation offered by Chair Barnes. Commissioner Hunsucker led in the Pledge of Allegiance to the Flag.
3. Commissioner Barger made a motion to approve the Minutes from Closed Session of Monday, June 2, 2003, Special Meeting of Thursday, June 5, 2003, and Regular Meeting Monday, June 16, 2003. The motion carried unanimously.
4. Presentation:
  - a. Commissioner Hunsucker made a motion to declare Sheriff's Deputy Steve Williams' service side arm and badge as surplus pursuant to North Carolina General Statutes 20-187.2 and present same to him on the occasion of his retirement. The motion carried unanimously.  
  
Sheriff L. David Huffman and Chair Barnes presented a plaque, service side arm and badge to Deputy Williams on the occasion of Deputy Williams' retirement.
5. Special Guests and Public Comment.  
  
Chair Barnes recognized Gloria Hemphill, Sarah Talbert, Joab Cotton, and Robert Braswell from the Hickory Public Schools Board of Education and Sherry Butler from the Catawba County School Board.
6. Public hearing:
  - a. Rezoning request of Archie D. Eckard and Faith F. Duke to rezone a 0.67 acre tract from R-2 Residential to C-1 Commercial. This property is located in the Clines Township at 5055 County Home Road in Conover, NC.

Planning Director Jacky Eubanks said the property is located at 5055 County Home Road (SR 1484), 50 feet south of the intersection of County Home Road and Springs Road (SR 1453) on the west side of County Home Road. It is located in the St. Stephens/Oxford Small Area Planning District, Clines Township and further identified as Parcel ID number 3734-17-22-2092.

The properties to the north, south and east are zoned R-2 Residential and developed with houses and some vacant parcels. Properties to the west along Springs Road are zoned C-2 Commercial and are developed with a variety of commercial uses. There is an existing public waterline fronting the parcel on County Home Road and along Springs Road. The most recent traffic counts are 11,000 Average Daily Trips (ADT) on Springs Road traveling north from the intersection of County Home Road and 4,000 ADT on County Home Road traveling south from the intersection of Springs Road. The Hickory-Newton-Conover Urban Area Transportation Plan (September 2001) projected an ADT of 10,000 at the intersection of County Home Road and Springs Road, which is already exceeded. The Transportation Plan recommended a left turn lane at the intersection of County Home Road and Springs Road. This is an unfunded project and not included in the 2004-2010 Transportation Improvement Program. The Transportation Plan projects traffic on the 2-lane section of Springs Road going north from County Home Road to NC Hwy 16 to double to 22,000 ADT by 2025. This capacity is beyond the practical capacity of a 2-lane road, therefore the Transportation Plan recommended that this section of Springs Road be widened to a 4-lane divided boulevard with grass median. This is an unfunded project and not included in the 2004-2010 Transportation Improvement Program.

The Board of Commissioners adopted the St. Stephens/Oxford Small Area Plan on April 21, 2003. This plan identifies Springs Road as a Commercial Corridor. The Commercial Corridor would start at

the intersection of County Home Road and Springs Road and extend west along Springs Road to the study area boundary. This particular parcel fronts County Home Road and falls outside of the recommended St. Stephens/Oxford Small Area Plan Commercial Corridor. Staff considers this parcel to be unique regarding its location to the intersection of Springs Road and County Home Road due to the fact that it abuts commercial zoning yet fronts County Home Road. If the rezoning request is approved by the Board of Commissioners, additional standards such as buffering would be required as part of a commercial site plan along the southern boundary abutting the residentially zoned parcel. Staff considers this parcel to be the extent of the commercial district and would not favorably recommend additional rezoning requests along County Home Road towards the south for properties on the east and west side since the area is residential.

Mr. Eubanks reviewed Section 44-81 of the Zoning Ordinance. He said the Planning Board conducted a public hearing on June 30, 2003, and voted unanimously in favor of the request to rezone the parcel from R-2 Residential to C-1 Commercial.

Chair Barnes opened the public hearing by saying this was the time and place as advertised for the public hearing and asked if anyone wished to speak either for or against.

There being no one wishing to speak, Chair Barnes closed the public hearing.

Commissioner Lail made a motion to approve the aforementioned rezoning request of Archie D. Eckard and Faith F. Duke to rezone a 0.67 acre tract from R-2 Residential to C-1 Commercial. The motion carried unanimously.

7. Appointments:

- a. Voting Delegate and Alternate for July 2003 NACo Conference.
- b. Voting Delegate and Alternate for August 2003 NCACC Conference.

Commissioner Lail made a motion to appoint Chair Barnes as delegate and Commissioner Beatty as alternate for the NACo Conference and Chair Barnes as delegate and Commissioner Hunsucker as alternate for the NCACC Conference. The motion carried unanimously.

8. Consent agenda:

County Manager J. Thomas Lundy presented the following consent agenda items:

- a. Resolution for second year request for the 321 Connection Traffic Safety Team funded through the NC Governor's Highway Safety Program.

Mr. Lundy said in November 2002, the Catawba County Sheriff's Office along with the Caldwell, Gaston, Watauga, and Lincoln County Sheriffs' Offices and the Gaston Police Department received a grant from the Governor's Highway Program to fund equipment and personnel for a six-agency traffic interdiction unit. Under this program, the six agencies work together to conduct traffic interdictions along the 321 corridor and other major highways in each of the counties in order to improve overall traffic conditions on these roads and improve the safety of citizens in each county that travel these highways. Catawba County received one additional officer position, under the grant, fully equipped to work traffic. This new traffic officer has worked well with the other five agencies to improve highway safety, conducting at least one multi-agency interdiction each month. The Catawba County Officer has also worked with the existing two-officer unit previously funded by Governor's Highway Safety Program to work traffic along the I-40 corridor. The unit will complete its first year of grant funding in September 2003. So far, the group has issued more than 1,115 traffic citations and 78 criminal charges. This is a 3-year grant that must be renewed each year with the County supplying progressive amounts of match each year until the grant is picked up totally through local funding in the fourth year. In the first year of the grant, the Catawba County Sheriff's Office received federal funding for one officer's salary and benefits at 100% and funding for equipment and training at 75%, up to \$75,240. A total investment of \$25,080 was required in matching money from the Narcotics Seized Funds.

**Resolution 2003-27**  
**North Carolina Governor's Highway Safety Program**  
**Local Governmental Resolution**  
**Form GHSP-02-A**

WHEREAS, the Catawba County Sheriff's Office herein called the "Agency" has completed an application contract entitled 321 Connection Traffic Safety Team;

and that the Catawba County Board of Commissioners (herein called the "Governing Body") has thoroughly considered the problem identified and has reviewed the project as described in the contract;

THEREFORE, NOW BE IT RESOLVED BY THE CATAWBA COUNTY BOARD OF COMMISSIONERS IN OPEN MEETING ASSEMBLED IN THE CITY OF NEWTON, NORTH CAROLINA

THIS 7th DAY OF JULY, 2003, AS FOLLOWS:

1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That L. David Huffman, Sheriff be authorized to file, on behalf of the Governing Body, an application contract in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of \$36,374.75 to be made to the Governing Body to assist in defraying the cost of the project described in the contract application; and
3. That the Governing Body has formally appropriated the cash contribution of \$12,958.25 as required by the project contract; and
4. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate persons to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor's Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

This 7th day of July, 2003.

Done and Ordered in open meeting by Chair Barnes.

Attested by /s/ Thelda B. Rhoney, County Clerk

- b. Resolution for abandonment of a portion of SR 1885 (Monbo Road) as recommended by NCDOT.

Mr. Lundy said NCDOT requested a review and recommendation from the Catawba County Board of Commissioners relating to the abandonment of maintenance for a portion of SR 1885 (Monbo Road) where it dead-ends into Lake Norman. This request came to the NCDOT from both of the property owners abutting this portion of Monbo Road. It is the intent of a developer to build a subdivision on this property. Abandoning this portion of Monbo Road is necessary to conform to his proposed subdivision plan. This section of road does not provide access to any residences or properties.

**Resolution No. 2003-28**  
**Requesting the Closing of a Portion of Monbo Road**

WHEREAS, Duke Power Co. and Lakeshore Development Co. petitioned the North Carolina Department of Transportation (NCDOT) to abandon a portion of secondary road "Monbo Road" (SR 1885) from the State maintenance system. The portion to be abandoned is specifically the last 710 feet (.13 mile) of Monbo Road where it dead-ends into Lake Norman; and

WHEREAS, NCDOT has submitted to the Catawba County Board of Commissioners a request for a review and recommendation for the road abandonment; and

WHEREAS, Staff has reviewed the request and has determined that no property owners would be deprived of ingress or regress.

NOW, THEREFORE, BE IT RESOLVED THAT the Catawba County Board of Commissioners has reviewed this request and recommends to the North Carolina Board of Transportation for the abandonment of the last 710-foot portion of SR 1885 (Monbo Road) where it dead-ends into Lake Norman.

This the 7th day of July, 2003.

/s/ Katherine W. Barnes, Chair  
Catawba County Board of Commissioners

Attest: /s/ Thelda B. Rhoney, County Clerk

c. Transfer of Fund Balance from the Icard Township Fire Department.

Mr. Lundy said as a result of the realignment of fire district boundaries in the Long View and Mountain View Fire Districts, approved by the Board of Commissioners at its June 2, 2003 meeting, the Icard Township Fire Department will no longer provide fire protection in the western area of Catawba County. Long View Fire Department and Mountain View Fire Department provides fire protection to these areas as of July 1, 2003. The funds totaling \$2,452.99 is the balance of fire tax revenues collected from the citizens in this area that were not used as part of the Icard Township Fire Department budget. The Finance and Personnel Subcommittee recommended that the Board of Commissioners approve a budget transfer of the remaining fund balance from Icard/Long View #1 in the amount of \$1,503.69 to the Long View Fire Department and also a budget transfer the remaining fund balance from Icard/Mountain View #2 in the amount of \$949.30 to the Mountain View Fire Department.

From:

Icard/Long View Fire District  
364-260010-690100  
\$1,503.69

To:

Longview Fire District  
362-260010-690100  
\$1,503.69

Icard/Mountain View Fire District  
366-260010-690100  
\$949.30

Mountain View Fire District  
352-260010-690100  
\$949.30

Commissioner Barger made a motion to approve the consent agenda. The motion carried unanimously.

**End Consent Agenda**

9. Departmental Reports:

a. Finance Department:

1. Hickory City Schools (American Legion Property).

Finance Director Rodney N. Miller said Hickory City Schools purchased the American Legion Property last year, with approval of the Board of Commissioners, for approximately \$1 million to expand the Hickory High School campus and connect the School and the building that houses the school's furniture program. Currently, a road does not exist between the three properties and students and staff use a public road to access the furniture building and the American Legion property. A new road connecting the three properties would allow students and staff to stay on campus at all times, thereby eliminating the potential liability associated with travel on a public road. With the access road of most importance to the school system, that project was included in a base bid, with ten alternates for other planned projects on that site and bids were solicited from prospective contractors. Bids were received from three contractors: Moss-Marlow, Eaglewood Inc. and Walker Construction.

After reviewing the bids, the Board of Education felt with grading equipment and heavy machinery already on site during the construction of the access road that it would be beneficial to proceed with the grading of two athletic fields and the installation of lighting and irrigation systems, as well as a parking area, which were planned for the school in the future. In addition, with the local economy, they felt that bids were very favorable to warrant proceeding with these additional projects now. The Board of Education decided to postpone the construction of Alternate #5, a concession stand, which would have cost an additional \$300,000, and Alternate #10, seeding for the two fields for \$35,000. By postponing the construction of the concession building, it would be wise to install a sewer line to the future site and add a concrete pad so that future construction of the concession stand would not interfere with existing infrastructure. These two additional items cost approximately \$10,000 and \$30,000, respectively. After eliminating the two alternates and adding the aforementioned projects, the Board of Education recommended awarding the bid to Moss Marlow Building Company for the project in the amount of \$559,290, which includes \$213,722 for the base bid, \$289,098 for the 8 alternates (Alt 1 - soccer/softball fields; Alt 2 - irrigation systems main line meter and backflow; Alt 3 - soccer field irrigation system; Alt 4 - softball field irrigation system; Alt 6 - soccer field lighting system; Alt 7 - softball field lighting system; Alt 8 - new parking lot, and Alt 9 - curb and guttering at new road and parking lot), \$40,000 for the two additional items, plus a 3% contingency.

The Finance & Personnel Subcommittee recommended that the Board of Commissioners approve a budget transfer in the amount of \$559,290 in the 1997 School Bond Fund from the College Park Renovation Project for the construction of an access road, grading of two athletic fields, installation of lighting and irrigation systems and a parking area on the former American Legion Property.

Superintendent Duane Kirkman briefly reviewed the bids.

After a brief discussion, Commissioner Hunsucker made a motion to approve the transfer of funds. The motion carried unanimously.

2. Hickory City Schools (Middle School B Property).

Finance Director Rodney N. Miller said since July 2000, Hickory City Schools has targeted as its top priority the construction of a new Middle School to replace Grandview Middle School, which is over 45 years old and experiencing significant mechanical and electrical problems.

Plans for the new middle school are almost identical to the plans for Northview Middle School and call for a multi-story school appropriate for limited acreage. Both sites are approximately 22 acres and owned by the Hickory City School System. The Middle School B project was included in the 8-year school construction and improvement plan, as presented to the Citizens' Advisory Committee in early 2001. Northview Middle School, the most recent middle school built in Catawba County, was completed in 2001 for \$12.5 million. Since then, favorable changes to the building code and a competitive building climate have evolved, and should allow for lower construction costs, but make an exact amount undeterminable at this time.

Catawba County has historically financed school construction through General Obligation Bonds, which is normally the least expensive method to finance school construction in North Carolina. With rates at all-time lows, the County explored other methods to finance the Middle School B project, such as financing described under G.S. 160A-20. This type of financing pledges the asset acquired or constructed as collateral for the loan in case of default. There are two financing methods to consider under this legislation: Certificates of Participation (COP's) and Installment Purchase Financing. With both methods, since the County does not own the land upon which Middle School B will be built, the Hickory Public Schools Board of Education must convey the land to the County in order for the County to borrow the funds for the new school. The County will, in turn, lease the new school and land to the Board of Education for its use, and at the end of the financing term, transfer all rights to the property back to the school system.

Installment Purchase Financing is less expensive as long as the borrowed funds and any other debt financing that occurs in the same calendar year total less than \$10 million. For Catawba County, no other debt has been, or will be, issued in this calendar year. To take advantage of lower financing costs, estimated to be in excess of \$200,000, the County will borrow funds from a bank up to \$10 million through an Installment Purchase Contract and pledge tax revenues for the remaining balance, projected to be between \$2-3 million.

Included in the adopted budget for Fiscal Year 03-04 are funds for the construction of a Maiden High School and expansion of the County's Justice Center. These two projects are estimated to cost \$25 million and \$17 million, respectively, with construction expected to begin in the spring of 2004. For these two projects totaling \$42 million, the County will need to issue COP's. This financing includes selling Certificates of Participation in the County's name to investors in the open market. This process requires more technical expertise from a financial advisor, underwriter and bond counsel, which makes the issuance costs higher than installment purchase financing. When the County issues COP's for \$42 million next year to finance a new Maiden High School and expand the Justice Center, the amount over \$10 million for the Middle School B project will be added to the COP's financing. The County will then reimburse the General Fund for that amount of pledged tax revenues, approximately \$2-3 million.

Construction Control Corporation (CCC), a construction management firm out of Columbia, South Carolina, approached Catawba County earlier this year to explore the possibility of providing construction management services for future capital projects of the County. Their services include managing the construction project from start to finish, including a value engineering study on the project design, working directly with contractors, reducing change orders and completing the project on time. They agreed to do a value-engineering study on the design of Middle School B, at no cost to the County, to determine if any cost savings could be realized. The construction of Middle School B will use the same design as the one for Northview Middle, which was constructed in 2001, with a few minor adjustments. As such, the Northview design was used as the basis for the value engineering review. The results of the study showed that the proposed design was cost efficient for a core of 800 students, which Middle School B is planned to accommodate. Areas for potential cost savings included recommendations to accept fewer alternate bids from contractors and modifications to the electrical, structural, and HVAC systems. The architect retained by Hickory City Schools is pursuing the viability of those recommendations.

All local governments in North Carolina that borrow funds greater than \$500,000 or longer than five years to maturity must receive approval by the Local Government Commission (LGC), a division of the NC Department of State Treasurer. The LGC meets September 2, 2003. (The best way to finance at this time is a fixed rate between 3 and 3 1/2 percent for 15 years.)

The Finance & Personnel Subcommittee recommended that the Board of Commissioners approve the construction of Middle School B in the southern part of the Hickory City School district, financed through an installment purchase contract.

Superintendent Duane Kirkman said they plan to break ground in September with the school opening in 2005.

After a brief discussion, Commissioner Hunsucker made a motion to approve the construction of Middle School B in the southern part of the Hickory City School district, financed through an installment purchase contract. The motion carried unanimously.

Dr. Kirkman requested and was granted a moment of personal privilege. He thanked the Hickory Public Schools Board of Education for its continuity and consistency. He thanked the Board of Commissioners for its vision and courage for creating a funding stream to allow school construction in the County.

- b. Public Health Department:



1. Catawba County Health Department Public Health Dental Project for an Expanded Facility.  
(Copy of Business Plan on file in the Office of Public Health Director.)

Public Health Director Barry A. Blick said the Catawba County Health Department has a mission that entails the protection and promotion of the health status of all people living and visiting in Catawba County. To fulfill that mission, the Board conducts needs assessment, identifies community health priorities, and takes steps to assure that services and programs exist to address insufficiencies in the local health care delivery system. The Public Health Board and staff then craft a strategy to strengthen the health care infrastructure to meet high priority needs and undertake specific activities to achieve desired outcomes. Sometimes the Board of Health advocates and partners with others to assure care is provided to a target population. Other times the Board determines no other care provider exists or can be developed; so the Health Department takes the responsibility of becoming "the provider of last resort" or a "safety net" that provides services not likely to be provided by any other care giver.

The Board of Health has, for the past fiscal year, undertaken an extensive assessment and planning project to expand the current Public Health Dental Practice to a capacity capable of serving all the Catawba County youngsters age 4-18 who now have no access to routine dental care. From the inception of the Public Health Dental Practice the Board of Health has prioritized care for children, because routine dental services for children maximizes the benefits of the scarce and limited resources available.

The target population is estimated to be 11,000 children, who are Medicaid eligible or medically indigent. Absence of adequate dental services is causing thousands of youngsters to experience needless chronic pain, systemic infections, nutrition problems, tooth loss, gum disease, and physical disfigurement. These young people miss school and suffer compromised physical, emotional, and intellectual development that robs them and our community of the potential they have to be productive and happy contributors to society. The financial costs associated with dental crises are high when adequate oral hygiene does not exist.

Many people who know about the dental problems experienced by Catawba County youth - parents, educators, health care providers, religious organizations, civic leaders, and countless others - lament that so many children in our community cannot get dental care. They understand that Medicaid reimbursement rates and too few dental practices cause a significant access to care problem. Aside from the Catawba County Health Department, no other local dental practice accepts Medicaid patients on a routine, non-emergency basis. The Health Department can only care for 2,000 child patients, leaving 11,000 with no other care options.

Thus, the Board of Health has concluded that no evidence exists that the resources now exist or will exist in the foreseeable future to assure all children have adequate access to dental care. Numerous individuals and organizations throughout the County are calling for Public Health to resolve the problem. With that realization, the Board proposes that the Health Department expand its Public Health Dental Practice to become the provider of last resort for 13,000 children with no other dental care provider.

The Public Health Dental Practice Subcommittee of the Board of Health and Health Department staff have determined that expanding the Public Health Practice is feasible regarding two important factors: 1) enough 1<sup>st</sup> and 3<sup>d</sup> party revenues (i.e., patient fees, Medicaid earnings, and insurance payments) can be earned to completely support operational expenses, and 2) the Health Department building is designed and sited in a manner that allows expansion of the current facility to accommodate a practice to serve 13,000 children. The obstacle to expanding the Public Health Dental Practice is having the capital funding to expand the Health Department building.

To meet the challenge of expanding the Public Health Dental Practice, a business plan for an expanded facility was developed. The document describes a 17,500 square foot facility, which will require \$2.6 - \$2.9 million to build, equip and furnish. Detailed activities and a timeline for raising the funds, facility completion, and practice growth are incorporated in the Business Plan. The Board of Health approved the Business Plan on June 2, 2003, and instructed the Health Director to submit the document to the Catawba County Board of Commissioners for endorsement and permission to proceed with the project.

The Finance and Personnel Subcommittee recommended that the Board of Commissioners endorse the "Catawba County Public Health Dental Practice Business Plan for Expanded Facility" dated June 2003, and grant permission to proceed with project described in the Business Plan.

Mr. Lundy said there was a \$150,000 commitment in the budget towards capital costs of the dental clinic with plans for another \$150,000 next year, with the remainder coming from private sector and grants.

After a brief discussion, Commissioner Lail made a motion to endorse the Business Plan for an expanded facility and grant permission to proceed with the project as described in the plan. The motion carried unanimously.

c. Utilities and Engineering:

1. Second Amendment to Agreement with City of Hickory for Mooresville Waterline.

Utilities and Engineering Director Barry B. Edwards said Catawba County entered into an agreement with the City of Hickory for municipal water provisions, revenue sharing, and operation and maintenance of the County's SECC water system on August 21, 2000. The agreement was amended on May 23, 2001, to revise the SECC boundaries. This amendment is for provisions to specifically address the City of Hickory's sale of bulk water to the Town of Mooresville through the County's SECC infrastructure. Under the terms of the agreement, the Town of Mooresville is able to purchase 3 million gallons per day for a term of five years; under the provisions, any sale of water thereafter will be for emergencies only. An expansion of the existing SECC water system is required to provide water to the Town of Mooresville. Mooresville has agreed to construct a 12-inch waterline from the Sherrills Ford and NC Hwy 150 intersection east along Highway 150 across the Catawba River to a point of connection to the City's existing infrastructure. (Staff requested that NCDOT approve a 16-inch waterline and NCDOT did not want a 16-inch line attached to the bridges and only approved a 12-inch line. Due to the drought last year, staff has gone back to NCDOT to request a 16-inch line.) Mooresville has also agreed that ownership of the constructed water lines and appurtenances within Catawba County will be transferred to Catawba County. The proposed amendment to the Hickory and Catawba County August 21, 2000, Agreement in all other aspects remains unchanged. The Policy and Public Works Subcommittee recommended that the Board of Commissioners approve the amendment. Mr. Edwards reviewed the following second amendment to agreement.

Mr. Lundy said the county would receive half the revenues off the water.

**Resolution No. 2003-29**

**Authorization to Amend Agreement with Hickory, North Carolina, for Revenue Sharing and Operation and Maintenance of Water System**

WHEREAS, Catawba County and the City of Hickory entered into an Agreement on August 21, 2000, for the operation of a water delivery system for an area in southeast Catawba County; and

WHEREAS, Catawba County and the City of Hickory have reached an agreement for the amendment and modification of said Agreement as the same relates to the City of Hickory provision of bulk water to the Town of Mooresville, North Carolina, as outlined in the written Second Amendment to Agreement dated contemporaneously with this Resolution; and

WHEREAS, the City of Hickory desires to enter into the agreement with Catawba County to commemorate the Second Amendment to the Agreement between the parties;

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of Catawba County, North Carolina, sitting in open session this 7th day of July, 2003, at a regularly scheduled meeting of the governing body of said Council, duly called and posted in accordance with the statutes of the State of North Carolina, that the Chairman of the Board and County Clerk are given the authority and direction to execute the agreement presented to the Board and to which this Resolution is attached and to see that the same is filed with the appropriate officers of Catawba County, North Carolina.

Done this 7th day of July, 2003.

BOARD OF COMMISSIONERS OF  
CATAWBA COUNTY,  
A North Carolina Body Politic

By: /s/ Katherine W. Barnes, Chair

Attest:

/s/ Thelda B. Rhoney, County Clerk

Approved as to form on behalf of Catawba County:

/s/ Robert Oren Eades, County Attorney

PREPARED BY: Larry W. Johnson, Staff Attorney, City of Hickory  
PO Box 398, Hickory, NC 28603

STATE OF NORTH CAROLINA  
CATAWBA COUNTY

**SECOND AMENDMENT TO  
AGREEMENT FOR OPERATION,  
MAINTENANCE AND  
MANAGEMENT OF WATER  
DISTRIBUTION SYSTEM**

THIS SECOND AMENDMENT TO CONTRACT is made and entered into this 7th day of July, 2003, by and between **CATAWBA COUNTY**, a political subdivision of the State of North Carolina and body politic corporate in nature, having a mailing address of P.O. Box 389, Newton, North Carolina 28658, hereinafter referred to as "Catawba County" and **THE CITY OF HICKORY**, a North Carolina Municipal Corporation, having a mailing address of P.O. Box 398, Hickory, North Carolina 28603, acting by and through the Mayor and the City Council, hereinafter referred to as "Hickory", and is intended to amend and modify the Agreement between the parties dated August 21, 2000, which has not been previously amended.

WITNESSETH:

WHEREAS, The City of Hickory and Catawba County have entered into further partnership agreements regarding the distribution of potable water and the collection and treatment of wastewater, as reflected in Agreements between said parties dated June 16, 2003; and

WHEREAS, Hickory has entered into a separate Agreement dated June 3, 2003 with the Town of Mooresville for the bulk sale of treated water (the "Mooresville Agreement"); and

WHEREAS, the implementation of the above referenced Mooresville Agreement requires the construction of certain additions, extensions and attachments to the System defined in the Agreement between the City of Hickory and Catawba County dated August 21, 2000; and

WHEREAS, the Agreement with the Town of Mooresville essentially results in an expansion of the System described and created pursuant to the Agreement dated August 21, 2000 between Catawba County and the City of Hickory; and

WHEREAS, there is a desire between the parties to clarify and confirm that the obligations are in fact interrelated for the purpose of creating one System to serve southeastern Catawba County with water and wastewater utilities;

NOW, THEREFORE, in consideration of the mutual covenants, conditions and terms contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

Section 1. Hickory has agreed to protect Catawba County's interests pursuant to the Agreement between Catawba County and Hickory dated August 21, 2000, in that:

- 1.1 Hickory will not support or encourage Mooresville to establish a customer base in Catawba County, North Carolina, to be serviced pursuant to this Agreement.

- 1.2 Hickory will transfer ownership of the lines referred to in Paragraph 4.9.2 of the Mooresville Agreement to be constructed pursuant to this Agreement to Catawba County pursuant to the terms of the Agreement between Catawba County and Hickory dated August 21, 2000.
- 1.3 Hickory will be responsible for any costs incurred in repairing breaks to the line which occur in that portion of the line where it crosses the Catawba River. In all other respects, maintenance and upkeep of the System shall be as originally established in the Agreement between Catawba County and Hickory dated August 21, 2000.
- 1.4 Hickory warrants that the agreement with Mooresville in no way affects Catawba County's ownership of capacity in the Hickory Water Treatment Plant and provision of the water purchased by Mooresville will not affect the quality of service received by Catawba County or Hickory customers serviced pursuant to the Agreement between Catawba County and Hickory dated August 21, 2000.
- 1.5 Hickory and Catawba County shall share revenue associated with the lines created as a result of the Mooresville Agreement as set forth pursuant to the Agreement between Catawba County and Hickory dated August 21, 2000.

Section 2. The Agreement between Catawba County and Hickory dated August 21, 2000, in all other aspects remains unchanged and is confirmed by the signatories hereto.

In Witness Whereof, the parties have executed this Agreement the day and year above first written.

**CITY OF HICKORY,**  
A North Carolina Municipal Corporation

ATTEST: (SEAL)

By: \_\_\_\_\_  
G. Rudy Wright, Jr., Mayor

\_\_\_\_\_  
Patricia W. Williams, City Clerk

This document has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Timothy T. Inch, Finance Director  
City of Hickory

Approved as to form on behalf of the City of Hickory this \_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Larry W. Johnson, Staff Attorney

**CATAWBA COUNTY, NORTH CAROLINA**  
A Body Politic In Nature

(SEAL)

ATTEST:

By: \_\_\_\_\_  
Katherine W. Barnes, Chair  
Catawba County Commission

\_\_\_\_\_  
Thelda B. Rhoney, County Clerk

This document has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Rodney Miller, Finance Director  
Catawba County, North Carolina

Approved as to form on behalf of Catawba County this \_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Robert Oren Eades, County Attorney

**STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA**

I, \_\_\_\_\_ a Notary Public of said County and State, certify that Patricia W. Williams personally came before me this day and acknowledged that she is City Clerk of the City of Hickory, a North Carolina Municipal Corporation, and that by authority duly given and as the act of the City Council of the City of Hickory, the foregoing instrument was signed in its name and by its City Manager, sealed with its corporate seal and attested by her as its City Clerk.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Notary Public

(SEAL)

My Commission Expires: \_\_\_\_\_

**STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA**

I, \_\_\_\_\_ a Notary Public of said county and state, certify that Thelda B. Rhoney personally came before me this day and acknowledged that she is County Clerk of the Catawba County, North Carolina, a body politic corporate in nature, and that by authority duly given and as the act of the Board of Commissioners of Catawba County, North Carolina, the foregoing instrument was signed in its name and by its Chair, sealed with its corporate seal and attested by her as its Deputy County Clerk.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Notary Public

(SEAL)

My Commission Expires: \_\_\_\_\_

After a lengthy discussion, Commissioner Barger made a motion to approve the aforementioned Agreement with the City of Hickory to provide the waterlines and the County sharing the revenue. The motion carried unanimously.

10. Attorneys' Report:

- a. Follow-up Report on Catawba County Code, Section 42-59, Regarding Contaminated Water Sources Requiring Connection to Public Water.

County Attorney Robert Oren Eades reviewed concerns raised at the Board's June 16, 2003, meeting, by Mr. Gary Moseley, General Manager of Heater Utilities, Inc. of Denver, NC, about an amendment to the County Code requiring connection to public water sources in cases where a water source has been declared contaminated by State officials when the contamination involves issues of human health and when public water is available. Mr. Eades said staff would take the approach that it has taken with all ordinances by adopting a reasonable position when citizens make a good faith effort. Private utility companies would have to follow state requirements and the County would not supercede the state regulations. Legal Counsel interpreted that "must connect," means one must connect only after all other alternatives have been exhausted. Legal Counsel has communicated this information to Mr. Moseley. Mr. Eades did not recommend further amendments to the Water and Sewer Ordinance, Chapter 42, Section 42-59 adopted June 16, 2003.

11. Manager's Report. None.

12. Other items of business:

- a. Resolution in Support of Equitable Funding for the University of North Carolina at Charlotte.

Chair Barnes said she talked with the Chancellor of UNCC and he is focused on economic development for our region. The resolution was prompted by the General Assembly setting aside funding for research projects at different universities across the state and there is concern that UNCC receive equitable funding as the Research Triangle Park. The Counties of Gaston and Mecklenburg have adopted similar resolutions.

**Resolution No. 2003-30**  
**Resolution in Support of Equitable Funding**  
**for the University of North Carolina at Charlotte**

WHEREAS, the economy of North Carolina is undergoing a dramatic change; and

WHEREAS, successful competition within the new economic environment requires a greater role for higher education; and

WHEREAS, the University of North Carolina has embraced this enhanced role and is increasingly directing its instructional, research, and service programs to encourage and assist economic development; and

WHEREAS, UNC Charlotte is a primary campus serving the Hickory MSA; and

WHEREAS, various bodies concerned with the economic well-being of the Hickory MSA have identified the research development growth of UNC Charlotte as critical to the region's economic development; and

WHEREAS, UNC Charlotte has responded by increasing the size of its student body; by adding degree programs, especially at the graduate level in technology and science-based disciplines; by strengthening research programs that undergird economic growth; and by implementing organizational changes such as the establishment of the College of Information Technology, the Office of Technology Transfer, and the Charlotte Research Institute, all intended to better connect the university with the public and private bodies concerned with economic development; and

WHEREAS, the State of North Carolina must ensure that UNC Charlotte is adequately funded to carry out its expanded role in economic development; and

WHEREAS, previous State investments aimed at strengthening instructional and research programs related to economic development have tended to be focused on one geographic region; and

WHEREAS, future State investments must recognize the critical importance of the economic well-being of the Hickory MSA to that of the entire State.

NOW, THEREFORE, BE IT RESOLVED THAT the Catawba County Board of Commissioners does hereby call upon the North Carolina General Assembly, especially the members from this area, to ensure equitable funding for UNC Charlotte and to ensure that UNC Charlotte participates in any new investment program by the State of North Carolina in research activities and infrastructure intended to enhance economic opportunity and competitiveness, particularly in emerging fields such as biotechnology, photonics, optoelectronics, information technology, and nanotechnology.

Adopted this 7th day of July, 2003.

/s/ Katherine W. Barnes, Chair  
Catawba County Board of Commissioners

Commissioner Hunsucker made a motion to adopt the aforementioned resolution. The motion carried unanimously.

13. Adjournment.

At 10:58 a.m. there being no further business to come before the Board, Commissioner Hunsucker made a motion to adjourn. The motion carried unanimously.

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Katherine W. Barnes  
Chair, Board of Commissioners

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Thelda B. Rhoney  
County Clerk